

# **Washington State Auditor's Office**

## **Audit Report**

### **Audit Services**

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Report No. 58077

**PORT OF SKAGIT COUNTY**

Skagit County, Washington

January 1, 1995 Through December 31, 1995

Issue Date: March 7, 1997

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**PORT OF SKAGIT COUNTY**  
**Skagit County, Washington**  
**January 1, 1995 Through December 31, 1995**

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**Independent Auditor's Report On Compliance With State  
Laws And Regulations**

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Board of Commissioners  
Port of Skagit County  
Burlington, Washington

We have audited the financial statements, as listed in the table of contents, of the Port of Skagit County, Washington, as of and for the fiscal year ended December 31, 1995, and have issued our report thereon dated August 30, 1996.

We also performed tests of compliance with state laws and regulations as required by *Revised Code of Washington* (RCW) 43.09.260. This statute requires the State Auditor to inquire as to whether the port complied with the laws and the *Constitution of the State of Washington*, its own ordinances and orders, and the requirements of the State Auditor's Office.

Compliance with these requirements is the responsibility of the port's management. Our responsibility is to make a reasonable effort to identify any instances of misfeasance, malfeasance, or nonfeasance in office on the part of any public officer or employee and to report any such instance to the management of the port and to the Attorney General. However, the objective of our audit of the financial statements was not to provide an overall opinion on compliance with these requirements. Accordingly, we do not express such an opinion.

The results of our tests indicated that, with respect to the items tested, the port complied, in all material respects, with the applicable laws and regulations referred to in the preceding paragraphs. However, we noted instances of noncompliance of regulatory requirements immaterial to the financial statements which are identified in the Schedule of Findings accompanying this report. With respect to items not tested, nothing came to our attention that caused us to believe that the port had not complied, in all material respects, with those provisions.

This report is intended for the information of management and the board of commissioners and to meet our statutory reporting obligations. This report is a matter of public record and its distribution is not limited. It also serves to disseminate information to the public as a reporting tool to help citizens assess government operations.

Brian Sonntag  
State Auditor

August 30, 1996

PORT OF SKAGIT COUNTY  
Skagit County, Washington  
January 1, 1995 Through December 31, 1995

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Schedule Of Findings

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1. The Port Should Improve Internal Controls Over Its Contract With EDASC And Limit Payments To Allowable Expenses

Our testing of expenditures made by the Port of Skagit County to the Economic Development Association of Skagit County (EDASC), a private nonprofit corporation, identified a number of concerns:

- a. In accordance with a contract dated April 18, 1995, the Port of Skagit County paid \$50,000 to EDASC in equal installments of \$12,500 on May 24 and 31, 1995, August 2, 1995, and October 10, 1995. These payments were for economic development related services provided from January 1, 1995, through December 31, 1995. The first installment represents a payment for services performed prior to establishing a valid contract. The last three payments represent payments made prior to receiving the full services.

The port received detailed project descriptions to document services provided for \$25,000 out of the \$50,000 contract. For the remaining \$25,000, EDASC submitted a letter describing the services provided along with each request for payment under the contract. These letters were worded in general terms and were exactly the same for each request except for one paragraph. Given the general terms in the contract, the Port of Skagit County did not have the ability to monitor contract completion to ensure an acceptable level of control over the cost and quality of the economic development services provided from the remaining \$25,000.

- b. In May 1995, the port paid \$4,500 to sponsor the 1995 EDASC annual meeting. The annual meeting was sponsored by one local business and the Port of Skagit County. A fee ranging from \$30 to \$50 per person was charged to attend this meeting with the proceeds benefiting EDASC. The annual meeting included dinner, entertainment, a speaker on economic development, celebration of the Port of Skagit County's 30th Birthday, and honoring of local government officials and businesses.

This payment was, in effect, a donation by the port to a nonprofit corporation due to the circumstances of the event. While the port has the legal authority to expend funds for a 30th Birthday celebration, the event would have to be open to the public. By charging for attendance, the general public is effectively excluded. Similarly, the expense of an economic development speaker would be allowable if the speaker were training port staff, addressing the public in general or if the fee charged for attendance was received by the port to offset the expense.

- c. In July 1995, \$125 was paid to EDASC for two port commissioners and three port employees to attend a golf tournament, wine fest, and food fair. This event was

described by EDASC as a fundraiser. Reimbursement documentation for this payment indicates the Port of Skagit County intended the payment to cover the expense of meals for port employees in attendance. The event registration form identifies the \$25 fee per person for EDASC members as payment for the festival fee for the wine fest and food fair and a souvenir wine glass. Since this event's sole purpose was to generate revenue for EDASC, no public purpose was served by this expenditure of public funds.

- d. In February 1996, the port paid \$10,000 to EDASC to purchase a computer system. The computer system was purchased for EDASC's use as a private nonprofit corporation. No formal agreement with EDASC identifying the nature of the work to be performed in exchange for this payment was prepared. An EDASC memorandum indicates the benefit as "the opportunity for EDASC to maximize staff and to increase its level of support to the Port of Skagit County." The port did not retain ownership of the computer equipment purchased and no identifiable service was provided to the Port of Skagit County.

The expenditures described in paragraph "a" above are allowable port district expenses based on the authority of the *Revised Code of Washington* ( RCW) 53.08.245 which states:

It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

However, these expenditures were inappropriate because they represented *prepayments* for services. Prepayment for services is prohibited by RCW 42.24.080 which states in part:

All claims presented against any county, city, district or other municipal corporation . . . shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation . . . . (Emphasis added.)

The expenditures described in paragraphs "b" and "c" above represent donations of public funds in support of private nonprofit fundraisers. The expenditure described in paragraph "d" above represents a gift of public funds.

Donations and gifts of public funds are prohibited by Article VIII, Section 7 of the *Constitution of the State of Washington* which states:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm . . . .

While port districts are authorized to make expenditures promoting industrial development or trade within the district by Article VIII, Section 8 of the *Constitution of the State of Washington* which states:

The use of public funds by port districts in such manner as may be prescribed by the legislature for industrial development or trade promotion

and promotional hosting shall be deemed a public use for a public purpose, and shall not be deemed a gift within the provisions of section 7.

Bulletin No. 404 issued by the Office of State Auditor to all public ports states:

The basic standard for promotional hosting at public expense is that the promotional hosting is calculated to result in the public purpose, declared by the Washington State Constitution, of promoting industrial development or trade within the district. Exceptions will be taken to any hosting when its possible influence on industrial development or trade promotion is so indirect or tenuous that the hosting expenditure appears to be hosting for the sake of hosting.

The expenditures as noted in "b," "c," and "d" do not meet the criteria for promoting industrial development or trade.

RCW 43.09.200, which prescribes the system of accounting for local governments, states in part:

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction . . . .

Staff of the Port of Skagit County have indicated EDASC is considered the marketing arm of the Port of Skagit County. As a result, payments were considered to be in support of economic development and promotion.

As a result of the exceptions noted above, the Port of Skagit County is unable to provide reasonable safeguards over the expenditure of public funds made through EDASC.

We recommend the Port of Skagit County:

- a. Establish contractual responsibilities and compensation in writing prior to commencement of work.
- b. Refrain from making contract prepayments.
- c. Establish contractual language which provides a reasonable means to determine if economic development services provided meet the expectations of the contract. Furthermore, payments for contracted services provided should be supported by adequate documentation.
- d. Refrain from making gifts of public funds to nonprofit corporations, such as by purchasing computers and contributing to fundraisers.

### Auditee's Response

Your proposed findings describe EDASC as a "non-profit private corporation." While this is technically correct, it falls short of conveying the role that EDASC has in the industrial development activities in Skagit County. EDASC has its roots in the 1950s when informal, volunteer activity promoting economic development began. The first paid staff occurred in 1985 when Governor Booth Gardner created TEAM Washington and associated development organizations (ADOs). ADOs serve as defacto field offices for the state department of trade. State funds were expended and EDASC was part of that state-wide economic development program. It was at this time that statutes were passed allowing counties, cities, and ports to fund ADOS (port's authority ) RCW 53.08.245).

TEAM Washington evolved into the Washington Development Network, a program administered through the Washington State Department of Community, Trade, and Economic Development (CTED). EDASC continues to be part of that state program, acting as an ADO. EDASC is viewed as one of the most effective ADOs in the State of Washington. EDASC receives funds annually from CTED to help finance the program.

About the time TEAM Washington came into being, the Port of Skagit County was placing infrastructure to serve its Bayview Business and Industrial Park (BBIP). A fully served industrial park was created in 1986. Sixty five acres have been leased. BBIP now contains 25 buildings and more than 40 tenants with an employment base of about 700. About half of that acreage was leased as a result of EDASC's efforts working directly with the Port. The other half was developed by a private developer who also works closely with EDASC to find tenants for the buildings he constructs. Without EDASC, we would not have an industrial park as we know it today.

EDASC's efforts are county wide; it is instrumental in locating economic development projects not only on the property owned by the Port of Skagit County but also on property owned by the Port of Anacortes and private property located elsewhere within the two port districts.

The Port of Skagit County utilizes EDASC as our marketing department. This working relationship has been efficient for the Port and successful for the community. Support of EDASC's activities fits within the mandate of Const. Art 8, sec. 8 which allows ports to use public funds ". . . in such a manner as may be prescribed by the Legislature for industrial development or trade promotion and promotional hosting . . ." RCW 53.08.245 is cited in your letter. The statute allows two things: it authorizes ports to engage in economic development programs and to contract with non-profit corporations. The Port's dealings with EDASC cover both parts. In working with EDASC, the Port is engaging in an economic development program sanctioned and funded by the State of Washington through CTED; and we are contracting with a non-profit corporation.

At this time, the Port will address the issues you raised in your letter.

#### a. Prepayment of contacts and substantiation of services rendered

The Port has engaged in contractual arrangement with EDASC for a number of years. The procedures involved in signing the contract and presentation of quarterly bills to the Port is routine. I came to the Port in June 1994. The contract and billing procedures were in place at that time and have continued the same since. The auditor's comments regarding internal procedures for contract execution and payment requests are well taken. They also come as a surprise. This issue has not previously been mentioned to the Port during any audit process since I have been here.

When the auditor changes the auditing standard and decides to question a procedure which has been in place for several years, it is appropriate that the issue be raised with the Port auditor and Port manager with a request for new procedures. This has been the practice in the past and the Port has cooperated with the state auditor's office in establishing new procedures. We have responded to audit requests concerning cash receipts from the laundry rooms at the Marina, the handling of delinquent

accounts at the Marina, and contracting with a professional service to provide a comprehensive inventory of the Port's assets. All of these resulted from the suggestion of the auditor during previous audits and were resolved by implementing procedures which were reviewed by the auditor at the time.

*This same approach should be utilized now. The Port is now aware of the auditor's concerns and will take appropriate steps with EDASC and with the Port's internal practices to address the concerns. However, making it the subject of an audit finding seems unnecessary and harsh given the fact that no previous notice or discussions have occurred.*

*b. The Port's 30th anniversary celebration*

*The Port believed the annual EDASC meeting was the perfect vehicle to celebrate its 30th anniversary. The annual meeting is one of the best attended public functions in the county. Our 30th anniversary celebration was attended by 430 people. Attendees buy tickets to defray some of the costs although, on the whole, it is a financial loser for EDASC. They report a loss of \$1,700 on the meeting. The annual meeting is not viewed as a fund-raiser and the notice for the meeting (copy attached) does not promote the meeting as a fund-raiser. I have also enclosed a copy of the notice for the 1996 annual meeting which does not characterize the occasion as a fund-raiser.*

*Using the EDASC annual meeting for the celebration was particularly fitting because of the close relationship between the two entities throughout the years, and the fact that EDASC has been instrumental in the success of locating tenants at the Port of Skagit County. All of the tenants at the Port's industrial park who have made major capital investment and who are the major employers were located here as a result of EDASC's efforts. They include Team Corporation, Van Zyverden, JanSport, Timberline, Pacific Circuits, International Aero, and Hexcel.*

*It was acknowledged during the exit conference that the Port has authority to expend funds for a 30th anniversary celebration. Since the EDASC annual meeting was not a fund-raiser, and considering the large public participation in the event, this should not be an audit finding.*

*c. Attendance at EDASC fund-raisers*

*In past years, the Port has been represented at the quarterly functions of EDASC by the Commission and staff members. Previously this attendance has not been mentioned by the state auditor.*

*These functions are well attended by the business, environmental, civic, and political leaders of the community and provide an invaluable opportunity for the Commission and executive director to communicate informally. This sort of contact builds strong relationships which are important as the Port engages in economic development and must address the permitting, zoning, environmental, and political issues so entwined with development.*

*Based upon the suggestions of your office, the Port will reduce its participation in these events. The Port will limit attendance, at Port expense, to the Commissioners and the executive director. Consistent with the Port's past practices, we will not pay for golf or other recreational activities associated with these functions. Unless we hear otherwise from your office, we will assume that you do not object to the Commissioner's and executive director's attendance as set out above.*

*Since this is the first mention of the concern and since the expenditure was low (\$125), the Port believes this is a proper subject of internal discussions between the state auditor and the Port, and should not be the subject of an audit finding.*

*d. Purchase of a computer system for EDASC*

*The Port believes the purchase of the computer was justified because of the greater service rendered to the Port. We take seriously the comments made by the auditor. Any future expenditures of this nature will be made with written agreements which satisfy the ownership and service concerns your office has raised.*



*Since this is a one time occurrence, and has not been an on-going practice at the Port, we believe it is unnecessary to include it as an audit finding.*

#### Auditor's Concluding Remarks

The port has expressed concern about the appropriateness of including these issues in the report as a finding. We want to assure them we use our professional judgment to consider a number of elements, including but not limited to, the number of questionable expenditures and dollar amount prior to writing a finding. Considering all of the factors involved in this case, it was determined these issues warranted a finding.

As noted in the finding, we do not question the port's authority to contract with EDASC for economic development purposes. We also do not question that EDASC's activities are worthwhile to many people in Skagit County. We acknowledge that EDASC has a long standing history with governmental agencies. However, it is, as stated, a private non-profit organization. Our review found the port's expenditures were questionable and/or inadequately supported with documentation which would provide the public with full knowledge of the services rendered in exchange for the public funds used.

The following is in response to the port's comments on each section of the finding:

- a. We have not changed the auditing standard. Nor have we changed the laws governing the port. The examples of issues provided by the executive director as having been previously resolved without a finding, primarily involved internal control situations. This finding addresses significant compliance issues as well as control issues.

An audit does not involve review of every transaction which occurred over the course of the year. Instead, we select items for further study based upon materiality and risk factors. In this particular case, we noted during our review, the port's 1995 payments to EDASC had tripled from the expenditure level in 1993. This significant increase was the basis for our detailed review of the payments. Although a portion of the increase in payments to EDASC was due to a new program, our finding is the result of the other irregularities noted.

- b. We disagree with the port as to a definition of a public function. The number of persons attending an event is not a good indication that the general public was invited. While it is certainly a benefit to EDASC to have such strong attendance at this event, the general public was still precluded from attending through admission fees ranging from \$40 to \$50 for non-EDASC members. We want to reemphasize the public had already paid for this event via the port's contribution of \$4,500.

Further, some reasonable relationship between the amount of public expenditure and the "public" nature of the event must exist. When public expenditures are not made directly by port employees they should be supported by a proper contract for legitimate and measurable services.

- c. We concur attendance at this type of function would be allowable as long as it is supported by an appropriate documented reason for participation.
- d. We are unable to determine if the expenditure was justified due to lack of documentation detailing the additional services rendered by EDASC beyond their original contract mentioned in "a" above. We are pleased this issue will be corrected in the future.

**PORT OF SKAGIT COUNTY**  
**Skagit County, Washington**  
**January 1, 1995 Through December 31, 1995**

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**Independent Auditor's Report On Financial Statements And Additional  
Information**

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Board of Commissioners  
Port of Skagit County  
Burlington, Washington

We have audited the accompanying financial statements of the Port of Skagit County, Washington, as of and for the fiscal years ended December 31, 1995 and 1994, as listed in the table of contents. These financial statements are the responsibility of the port's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Port of Skagit County at December 31, 1995 and 1994, and the results of its operations and cash flows for the fiscal years then ended, in conformity with generally accepted accounting principles.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The accompanying Schedule of Long-Term Debt and Schedule of Limitation of Indebtedness are presented for purposes of additional analysis and are not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly presented in all material respects in relation to the financial statements taken as a whole.

Brian Sonntag  
State Auditor

August 30, 1996